

In re: PAN AMERICAN HOSPITAL CORPORATION, DEBTOR.
In re: PAN AMERICAN MEDICAL CENTERS, INC., DEBTOR.

Case Nos. 04-11819-BKC-AJC and 04-11820-BKC-AJC
(Jointly Administered)

The Court determined whether the allowance of an "evergreen retainer" in a Chapter 11 case is reasonable. The attorneys for the Debtors in Possession seek to hold the retainer they received as evergreen, until the end of the case. The United States Trustee objected on several grounds.

After a discussion of evergreen retainers, the Court determined that such retainers are permissible in Chapter 11 cases, and allowed the evergreen retainer in this case. However, to balance the interests of all parties, the Court modified its prior order shortening the 120-day fee application period. The Court previously allowed counsel to seek reimbursement of its fees every 60 days, as opposed to every 120 days, to avoid any hardship that may be suffered from the attorneys having to wait 120 days to be paid. The Court determined that, with the allowance of the evergreen retainer as a risk-minimizing device, the Debtors' counsel was not also entitled to a shortened fee application period.